

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on February 16, 2001 at 7:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Steven Gallus (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 603 - 2-15-01**
HB 585 - 2-15-01
HB 563 - 2-15-01

HB 560 - 2-15-01

HB 590 - 2-15-01

HB 570 - 2-15-01

Executive Action: HB 603 - DPAA

HB 313 - DPAA

HB 560 - DPAA

HEARING ON HB 603

Sponsor: Rep. Jim Shockley, HD 61, Ravalli County said HB 603 is a Committee Bill which would provide a statute that would let the Attorney General know that a state agency is involved in litigation.

Proponents: Chris Tweeten, Chief Counsel for the Attorney General's office, **EXHIBIT**(juh39a01)

Opponents: None

Questions from Committee Members and Responses: Reps. Eggers, Peterson, Harris, Noennig, Hurdle to Mr. Tweeten.

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 603 by saying he believes it is a good idea to add the concurring language Mr. Tweeten proposed. There is also a statute that provides that the Governor can secure her own counsel in certain circumstances.

EXECUTIVE ACTION ON HB 603

Motion: REP. MANGAN moved that HB 603 DO PASS. #1

Discussion: Reps. Eggers, Shockley, Harris, Noennig, .

{Tape : 1; Side : A; Approx. Time Counter : 0 - 29.8}

Motion/Vote: REP. NOENNIG moved that HB 603 BE AMENDED. #2

Motion on Noennig amendment carried unanimously 19-0.

Motion: REP. SHOCKLEY moved that HB 603 DO PASS AS AMENDED. #3

Discussion: Rep. Peterson.

Vote: Motion #3 carried unanimously 19-0.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 4.3}

EXECUTIVE ACTION ON HB 313

Motion: REP. NEWMAN moved that HB 313 DO PASS. #4

Discussion: Reps. Peterson, Newman.

Motion: REP. NEWMAN moved that HB 313 BE AMENDED.

EXHIBIT(juh39a02) #5

Discussion: Reps. Newman, Younkin, Harris, Noennig, Clark, Mr. MacMaster.

Substitute Motion: REP. CLARK made a substitute motion that HB 313 BE AMENDED. #6 Withdrawn **EXHIBIT**(juh39a03)

Discussion: Reps. Mangan, Younkin, Harris, Hurdle, Peterson, Thomas. Rep. Newman explained the amendments.

{Tape : 1; Side : B; Approx. Time Counter : 4.3 - 29.4}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 8.9}

Vote: Newman Motion #5 carried unanimously 19-0.

Motion/Vote: REP. MANGAN moved that HB 313 DO PASS AS AMENDED. #7
Motion carried unanimously. 19-0

HEARING ON HB 560

Sponsor: Rep. Mark Noennig, HD 9, Billings said this Bill is called an "Offers of Settlement" Bill. The purpose of the Bill is to reduce frivolous claims and litigation during settlement of claims and reduce the cost of litigation. When a case is pending, within certain time limits, one party can offer to settle the case to the other party. The other party has to respond in the prescribed period of time, 10 days. They can either accept it or reject it. If they don't respond, it's rejected and if that party that rejected the offer doesn't do better than that in the final outcome, then that party is responsible to pay the other party's attorneys' fees from the date of the offer forward.

Proponents: Bob Worthington, CEO, Montana Municipal Insurance Authority

Carl Schweitzer, American Subcontractors Association of Montana.

Opponents: None

Informational Witness: Jacqueline Lenmark, American Insurance Association. Also speaking for Greg Van Horssen, on behalf of State Farm Insurance.

{Tape : 2; Side : A; Approx. Time Counter : 6.4 - 29.8}

Questions from Committee Members and Responses: Reps. Harris, Noennig, Peterson, Clancy, Mangan.

Closing by Sponsor: Rep. Noennig closed the Hearing on HB 560.

HEARING ON HB 563

Sponsor: Rep. Paul Clark, HD 72, Trout Creek said this Bill is a simple companion Bill to his DNA Bill. Now there is a statute of limitations for all felonies in the State of Montana which is limited to five years. That's true for all felonies except for deliberate, mitigated, or negligent homicide which may be commenced at any time.

This Bill would add certain sexual offenses to the list of offenses for which a prosecution may be commenced at any time.

Proponents: John Connor, Attorney General's Office and Montana County Attorneys' Association, said this Bill makes good public policy sense to not close the door on the opportunity to prosecute these cases if the evidence is there. He believes people ought to be responsible for their actions and if they don't take responsibility for them then they ought to be held accountable through our judicial system.

Opponents: None

Questions from Committee Members and Responses: Reps. Younkin to Mr. Connor, Peterson, Noennig, Laszloffy.

Closing by Sponsor: Rep. Clark closed the Hearing on HB 563.

HEARING ON HB 585

Sponsor: Rep. Dan Fuchs, HD 15, Billings said this Bill eliminates the DEQ's review in the Sanitation Subdivision Act where it makes it permissive for counties to make their own review on sanitation. It also sets up a fee setting authority for the local reviewing authority and clarifies the time frames involved in the reviewing process. **EXHIBIT(juh39a04)**

Proponents: None

Opponents: None

Informational Witness: Ann Hedges, Montana Environmental Center said this is an issue that has been the subject of a lot of discussion in the last few years. The report EXHIBIT 4 is very independent of the work that was done in the consensus process. There are about five other Hearings going on now. She feels the committee will not have enough time to investigate all the angles. She urged the Committee to proceed with caution because there is another Bill coming out of the Senate that will move into the House and it will address a lot of the issues that were a concern to all the parties. There is still a lot of merit, a lot of value in this Bill and deserves further discussion.

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{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 2.8}

Questions from Committee Members and Responses: Reps. Clancy, Rice, Noennig, Wolery, Mangan, Gutsche, Hurdle, Peterson to Rep. Fuchs, Ms. Hedges; Angie Grove, Auditor, Charge of the Review;

{Tape : 3; Side : A; Approx. Time Counter : 2.8 - 29.8}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 13.4}

Closing by Sponsor: Rep. Fuchs closed the Hearing on HB 585.

HEARING ON HB 570

Sponsor: Rep. Jim Shockley, HD 61, Ravalli County said, as drafted now, this Bill would allow the Attorney General or the County Attorney to become involved enforcing the Water Use Act. This will make it very clear that the County Attorney can enforce a misdemeanor as well as the Department and the Attorney General and, without the permission of the Department of Natural Resources and Conservation, (DNRC), can go for a civil penalty. He explained amendments and changes to the Bill.

{Tape : 3; Side : B; Approx. Time Counter : 13.4 - 23.7}

Proponents: Don MacIntyre, Chief Counsel, Department of Natural Resources and Conservation, (DNRC), Helena

Jack Stults, Division Administrator, Water Resources Division, (DNRC), Helena.

Opponents: None

Questions from Committee Members and Responses: Reps. Younkin, Adams to Rep. Shockley

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 570.

{Tape : 3; Side : B; Approx. Time Counter : 23.7 - 26.8}

HEARING ON HJR 29

Sponsor: Rep. Eileen Carney, HD 82, Libby said this Resolution would direct to the Department of Environmental Quality, (DEQ) to use the information from samples taken around Libby to develop some kind of ambient air standard based on human health risks from chronic exposure to asbestos.

{Tape : 3; Side : B; Approx. Time Counter : 26.8 - 29.7}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 0.6}

Proponents: Bonnie Gestring, Montana Environmental Information Center.

Rep. Aubynn Curtiss, HD 81

Opponents: None

Questions from Committee Members and Responses: Reps. Laszloffy, Mangan, Harris to Ms. Gestring, Rep. Carney.

Closing by Sponsor: Rep. Carney closed the Hearing on HJR 29

{Tape : 4; Side : A; Approx. Time Counter : 0.6 - 14.3}

HEARING ON HB 590

Sponsor: Rep. Joan Hurdle, HD 13, Billings said there are two sections to this Bill. Section 1 asks that migrant farm workers'

employers calculate the income eligibility to determine medical assistance and Section 2 asks the Department of Public Health and Human Services to apply for a waiver and submit this plan to HICFA to make sure it will work.

Section 3, Page 2 asks that medical assistance be considered automatically under some circumstances until the details are verified. Automatic eligibility is done with CHIP. If a child needs medical care right away, they get it and then eligibility can be determined later.

This will be a big savings in administrative costs and is something that is done in many other programs.

Medical assistance must be provided to a child who is under 19 during the period of presumptive eligibility and mostly done with Medicaid and are now asking that it be done under CHIP.

Proponents: Rep. Jeff Mangan, HD 45, Great Falls said he administered a program that dealt with migrant farm workers in Billings and Eastern Montana for a number of years so he is qualified to speak on this subject. This is a major problem trying to get projected employment financial data because there are two migrant streams. One works through Eastern Montana for sugar beet farms and one in Western Montana dealing with the cherries. It is a state-wide need as farm workers travel with their families. There are several federal programs available to migrant farm workers currently, including education. There is some financial assistance as well as some food assistance for those same families. Medical care for children is a big issue. When children need medical assistance they need it immediately.

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{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 0.4}

Opponents: None

Questions from Committee Members and Responses: Reps. Newman, Rice, Clancy, Adams, Peterson to Rep. Hurdle.

Closing by Sponsor: Rep. Hurdle closed the Hearing on HB 590.

{Tape : 4; Side : B; Approx. Time Counter : 0.4 - 8.9}

EXECUTIVE ACTION ON HB 560

Motion: REP. NOENNIG moved that HB 560 DO PASS. #8

Discussion: Reps. Eggers, Noennig, Clancy, Laszloffy, Peterson, Harris, Younkin

Motion/Vote: REP. PETERSON moved that HB 560 BE AMENDED. #9
Motion carried unanimously 19-0.

Motion: REP. NOENNIG moved that HB 560 DO PASS AS AMENDED. #10

Discussion: Reps. Noennig, Harris, Younkin, Peterson, Newman.

Vote: Motion #10 carried unanimously 19-0.

{Tape : 4; Side : B; Approx. Time Counter : 8.9 - 25.5}

ADJOURNMENT

Adjournment: 11:00 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh39aad)